

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

*In re Dealer Management Systems Antitrust
Litigation*, MDL 2817

No. 1:18-CV-864

This document relates to:

Hon. Robert M. Dow, Jr.

ALL PENDING CASES

Magistrate Judge Jeffrey T. Gilbert

**DEFENDANTS' MOTION TO BAR
PLAINTIFFS' NEW "INITIAL CONSPIRACY" THEORY**

Defendants The Reynolds and Reynolds Company and CDK Global, LLC respectfully move this Court for an order barring Plaintiffs from pursuing the fundamentally new "Initial Conspiracy" theory described in their August 26, 2019 expert reports—a theory which purports to add tens or hundreds of millions of dollars in alleged antitrust damages, yet which is not alleged in any of Plaintiffs' Complaints and which Plaintiffs never disclosed to Defendants during fact discovery.

Defendants concurrently are filing a Motion for Leave to File *Instantly* a Brief in Excess of Fifteen Pages, to which is attached a 20-page proposed Memorandum of Law ("Memorandum") in support of this Motion. The Memorandum is being filed under seal and Defendants will serve Plaintiffs with an unredacted copy by email. Should the Court grant the Motion for Leave, Defendants will promptly file a public redacted version of the Memorandum with the Court.¹

¹ This Motion is not a discovery motion or a motion within the scope of Local Rule 37.2. Nevertheless, out of an abundance of caution, Defendants state that to the extent the Court construes this motion as a discovery motion, compliance with Rule 37.2's meet-and-confer requirement should be excused because there is no reasonable prospect that Plaintiffs will voluntarily withdraw the Initial Conspiracy theory set

Dated: October 14, 2019

Respectfully submitted,

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out in their expert reports. *See* Dkt. 498 (where the parties' positions were "absolute," "no point would have been served by more consultation than occurred").

CERTIFICATE OF SERVICE

I, Britt M. Miller, an attorney, hereby certify that on October 14, 2019, I caused a true and correct copy of the foregoing **DEFENDANTS' MOTION TO BAR PLAINTIFFS' NEW "INITIAL CONSPIRACY" THEORY** to be filed and served electronically via the court's CM/ECF system. Notice of this filing will be sent by e-mail to all parties by operation of the court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the court's CM/ECF System.

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